

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

KATHRYN E. HUTCHINSON	)	
	)	CASE No. 5:16-CV-00018
	)	
	)	JUDGE JOHN R. ADAMS
Plaintiff,	)	
	)	
v.	)	
	)	
HONEYMOON CORPORATION, et al,	)	
	)	
Defendants.	)	

**DEFENDANTS HONEYMOON CORPORATION AND STEPHEN RECTOR'S  
MOTION TO STAY BRIEFING ON PLAINTIFF'S MOTION FOR CONDITIONAL  
CERTIFICATION PENDING A RULING ON THEIR MOTION TO DISMISS**

Defendants Honeymoon Corporation and Stephen Rector hereby move for an order to stay briefing on Plaintiff's Motion For Conditional Certification, and Court-Supervised Notice to Potential Opt-In Plaintiffs, Doc. No. 10, pending this Court's ruling on Defendants' Motion to Dismiss or for Summary Judgment, being filed contemporaneously herewith. The grounds upon which briefing should be stayed are stated more fully in the following Memorandum in Support.

Respectfully submitted,

*s/David Andrews*

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**MEMORANDUM IN SUPPORT**

Plaintiff, Kathryn Hutchinson<sup>1</sup> filed her Second Amended Complaint, Doc. No. 9 (“Complaint”), on March 14, 2016. On that same day, she also filed Plaintiff’s Motion For Conditional Certification, and Court-Supervised Notice to Potential Opt-In Plaintiffs, Doc. No. 10 (“Plaintiff’s Motion for Conditional Certification”).

Being filed contemporaneously with the instant motion is Defendants Honeymoon Corporation and Stephen Rector’s Motion to Dismiss Plaintiff’s Second Amended Complaint, or for Summary Judgment (“Defendants’ Motion to Dismiss”). Defendants’ Motion to Dismiss contends that because Defendant Honeymoon Corporation has never had gross annual sales in excess of \$500,000 and Plaintiff was not engaged in interstate commerce or in the production of goods for interstate commerce, she has no valid claims pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”).

If Defendants’ Motion to Dismiss is granted, then it will be unnecessary for the parties to brief the merits of Plaintiff’s Motion for Conditional Certification, in which Plaintiff claims she is entitled to certification of this case as a collective action based upon her FLSA claims. *See*, Plaintiff’s Motion for Conditional Certification, Doc. No. 10, at 1. If her FLSA claims are dismissed by this Court, then her Motion for Conditional Certification pursuant to the FLSA will likewise be meritless.

"The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket." *Clinton v. Jones*, 520 U.S. 681, 706 (1997). Stays of proceedings can also promote judicial economy, reduce confusion and prejudice, and prevent possibly inconsistent resolutions. *See Clinton*, 520 U.S. at 706. In determining whether a stay is

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<sup>1</sup> According to the Honeymoon’s records, the correct spelling of plaintiff’s last name is “Hutchison.”

appropriate, courts examine the following four factors: (1) the likelihood of the moving party ultimately prevailing on the merits; (2) the extent the moving party would be irreparably harmed; (3) potential for harm to the opposing party if the stay is issued and (4) whether issuing a stay would be in the public interest. *Guirola-Beeche v. U.S. Dep't of Justice*, 662 F.Supp. 1414, 1417-18 (S.D. Fla. 1987).

In this situation all relevant factors indicate that a stay is appropriate under the circumstances. Defendant's Motion to Dismiss provides tax returns and other documentation to establish that there is no coverage under the FLSA, which is required for Plaintiff's claims to proceed. Plaintiff would not be irreparably harmed or potentially harmed by the granting of this short stay and defendants are willing to toll the statute of limitations for any putative class members so that they likewise would not be harmed by the granting of this stay. Finally, issuing the requested stay is in the public and this Court's interest because it would promote judicial economy by preventing potentially unnecessary legal fees and use of the Court's time and resources.

For all the foregoing reasons, Defendant Honeymoon Corporation and Stephen Rector request that briefing on Plaintiff's Motion for Conditional Certification be stayed pending this Court's ruling on Defendant's Motion to Dismiss. Defendants further request that if their Motion to Dismiss is denied, they have 14 days following that ruling within which to respond to Plaintiff's Motion for Conditional Certification.

Respectfully submitted,

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*Attorneys for Defendants Honeymoon Corporation  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing has been served via the Court's electronic filing system this 28<sup>th</sup> day of March, 2016 to:

Daniel E. Thiel  
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Suite 650  
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*Attorney for Plaintiff, Kathryn E. Hutchinson*

s/ David Andrews  
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